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FILED
MAY 21 2008
OFFICE OF THE CLERK
SUPREME COURT, U.S.

No.: 07-1144

In the

Supreme Court of the United States

RUBIN STERNGASS,

Petitioner, Pro Se,

-against-

TOWN OF WOODBURY, SHEILA H. CONROY, ET. AL.,

Respondent.

APPLICATION FOR RELIEF PURSUANT TO ARTICLE III, 1ST AMENDMENT, 5TH AMENDMENT, 7TH AMENDMENT, 14TH AMENDMENT, 42 USC 1983, AND 28 USC 1651(A)

RUBIN STERNGASS
Petitioner, Pro Se
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I, RUBIN STERNGASS, *Pro Se* Petitioner in this matter, respectfully submit that the principles in the Plurality Court Edict in the matter of *"City of Monterey (Petitioner) v. Del Monte Dunes at Monterey, Docket No. 97-1235 (argued on October 7, 1998 and decided on May 4, 1999)"* should be applied to the Second Circuit, as the facts strike a familiar and similar tune (see Village of Woodbury communication, dated April 30, 2008), and I hereby make this application to the individual Jurists, pursuant to Rule 20 – specifically:

1. A jury demand was filed with my Complaint and was summarily dismissed (included in my Appendix) upon the Defendants' improper Motion for Summary Judgment and a denial of my specific request to obtain aid of counsel.

2. The real property [thirty-five plus-or-minus (35 +/-) acres] was developed with multiple residential structures *prior to 1928* (when the Town of Woodbury's Zoning Ordinance first appeared in 1928).

3. Additional multiple residential structures were subsequently built (1944) by my predecessor of title in compliance with that Zoning Ordinance and so existed in 1953 without calendar restrictions to *seasonal use* (Refer to the Zoning Board of Appeals Order of 1964.) *[Lawton v. Steele, 152 US 133, @ 137 (1894)* as well as *Yee v. City of Escondido, 503 US @ 537 (1992)].*

4. The Amendment in 1953 to that 1928 Zoning Ordinance altered and impaired the vested entitlements that were so obtained and *inalienable*, which was in direct violation of constitutional mandates (*by restricting use to "warmer months only"*). The amendment was vague, void, and unconstitutional, as applied, as ably stated in *Mugler v. Kansas, 123 US 623 @ 661 (1887)*; in *Allgeyer v. Louisiana, 163 US 578 @ 90 (1897)*; and in *Euclid Vanbler Realty, 276 US 365 (1926)* where it was stated, "Zoning power is not un-fettered.".

   Further, *Nectow v. Cambridge, 217 US 183 (1928)*, struck down an application of a zoning ordinance as deprivation of property without Due Process. Writing for the Court, Justice Sutherland is on target, as "restriction of use" by character is not unlimited, and Judicial inquiry is required, as it relates to public health and safety. Yet further, under *Nolan v. California Coastal Commission, 483 US 825 (1987)*, it was stated, " ... causing a taking ... pursuant to the Fifth (5th) Amendment.".

5. The 1953 Amendment did not advance a legitimate public interest and was Ultra Vires and contrary to New York State's enabling authority granted and should be viewed as an *abuse of authority and process*.

6. The Municipalities' duty to enforce the 1928 Zoning Ordinance was thereby avoided, which is contrary to the Enabling Act of the State of

New York that *permitted multiple residences* to be so built, without restriction, on my deeded land. With this type of temporary loss of property, damages are permissible under *First English ... v. County of Los Angeles, 482 US 304 (1987);* and a full and exact equivalent determined by its profitableness, as permitted by the 1928 Zoning Ordinance.

7. The resulting denials by the Municipality – the Town of Woodbury – caused an UNCOMPENSATED regulatory taking to continue to reoccur daily. The property has been stripped of all income; thus, the Common Law Doctrine of Trespass on the case should be applicable and tried by judicial edict; and relief by Writ, [pursuant to 28 USC 1651(a) and/or 42 USC 1983] is the proper Federal vehicle for such Torts by Municipal avoidance to Constitutional mandates that were intended to protect property rights under natural law and pursuant to Case Law (1795 and 1798), which stated, " ... should not violate the right of private property" *(Calder v. Bull, 3 Dallas 386, Past Jurist Samuel Chase @ 388).* Further, *The Chicago, Burlington, & Quincy Railroad Co. v. Chicago, 166 US 226 (1897)* confirmed the "just compensation requirement" ... guaranteed by the Fourteenth (14th) Amendment and applied to the states (including the process permitted by the State of New York) as well as the takings clause of the Fifth (5th) Amendment

and the State of New York's constitution and our historic Bill of Rights precepts.

8. My action should have been heard and tried, pursuant to my request and at District Court level, as mandated by the Seventh (7th) Amendment of the United States Constitution.

In furtherance of why this case has National implications, I respectfully request that you consider the fundamental and higher law precepts, which included the federal contract clause, as applied to vested property rights and as applied to a State's power *[Fletcher v. Peck, 10 US 87 (1810)]*:

1. The Town of Woodbury has been replaced by a Village of Woodbury by their abuse of statutory authority, and this occurred during my appeal process (August 2007) and was motivated to restrict expansion of an existing religious village (within the Town of Woodbury).

2. I have served all process documents – which went before the Second Circuit of the Court of Appeals and the United States Supreme Court – upon the Town *AND* Village of Woodbury, and the Village of Woodbury has ignored responding to the documents.

3. Only the Town of Woodbury has responded in opposition, and the Town NOW has no authority to permit rebuilding in compliance

with the effective 1928 Zoning Ordinance, as it is *NOW a Village* of Woodbury function, thereby illegally superseding the vested entitlements of the 1928 Zoning Ordinance. Our colonial heritage forefathers recited "in controversies respecting property", the right to a Jury Trial is mandated by the Seventh (7th) Amendment.

4. I have supplied the Village with all correspondence, as included within the Appendix of my Brief.

I am grateful for the time and consideration of this Honorable Court. Hopefully, I will obtain this Honorable Court's review and a determination on the merits of this case.

I, RUBIN STERNGASS, *Pro Se* Petitioner, do hereby certify that this Petition for Redress is presented in good faith and NOT for delay. I have briefly and distinctly stated the intervening circumstances of substantial or controlling effect or to other substantial grounds not

previously presented in compliance with this Honorable Court's conveyance.

Respectfully,

Rubin Sterngass
Pro Se Petitioner
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FAX: (845) 268-2176
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Sworn to before me this 18
day of August, 2008.

Janiemae D. Sturgeon
Notary Public

JANIEMAE D STURGEON
Notary Public, State of New York
No. 01ST6117564
Qualified in Rockland County
Term Expires October 25, 2008

Village of Woodbury
PO Box 546, Central Valley, NY 10917
(845) 928-7558 Phone (845) 928-9278 fax
woodburyvillage@yahoo,com

April 30, 2008

Dear Applicant,

Recently you were given the opportunity to appear before the Village of Woodbury Board of Trustees to present your request for a zoning change.

At this time, the Board is nearing completion of our Comprehensive Plan. After its adoption, the Board will then be working with our Planner to revise our Zoning Law to comply with the recommendations made in the Comprehensive Plan.

Once this process is complete, the Board will review and take action on your request.

If you should have any questions regarding this process that will be followed by the Village Board, please feel free to contact me.

Sincerely,

Stephanie Berean-Weeks

Stephanie Berean-Weeks
Village Mayor

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

May 12, 2008

Mr. Rubin Sterngass
129 Ridge Road
Valley Cottage, NY 10989-2466

Re: Rubin Sterngass
v. Town of Woodbury, New York, et al
No. 07-1144

Dear Mr. Sterngass:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

William K. Suter

William K. Suter, Clerk